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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,908	03/09/2001	Elisabeth Lakso	000500-282	7370

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,908

Applicant(s)

LAKSO ET AL. *cl*

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The abstract of the disclosure is objected to because the abstract is a copy of the PCT abstract. A clean copy of the abstract on a separate page must be submitted prior to allowance, if any. The legal terminology, i.e. "comprising", "said", should be avoided. Correction is required. See MPEP § 608.01(b).
2. The drawings are objected to because a copy of Figures 1-4 is not present in the application. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 1, lines 28 and 32 .
4. The disclosure is objected to because of the following informalities: 1) The various subsections of the specification should be preceded by subtitles, e.g., Background of the Invention, etc. Applicant is reminded the section of the specification which is the Summary of the Invention section, should include a description of the invention which is commensurate with the claimed invention, see MPEP 608.01(d) and 1302.01. 2) On page 12, lines 3-4 and 30-33, reference to the claims should be avoided.

Appropriate correction is required.

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5. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 1-26 are indefinite in that they are replete with improper claim syntax. For example, in regard to claims 1-7, these claims provide for the use of , but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. Furthermore it is unclear where the preamble ends and the claim body begins in claim 1 and the scope of the claim since a transitional phrase, i.e. "comprising", "consisting", etc., is not used. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). The phrase "or the like" in claim 1 renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). In regard to claims 8, 16, 23, 24, the remarks with regard to claim 1, with respect to the transitional phrase, the terminology "such as", which also applies to the terminology "preferably"(claims 8, 16, 24) and "and possibly"(claim 16) and "for instance"(claim 23), and the terminology "and the like" also apply here to similar informalities. In claims 9, 10, 25 and 26, which material is Applicant referring to, i.e. the renewable raw? Or the material comprising the article? In regard to claim 15, with regard to the language "preferably" the

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remarks with regard to claim 1 supra also apply here. The inventions on lines 2 et seq of claim 15 are inconsistent with that set forth in the preamble, i.e. lines 2-3 require more than just an absorbent article.

7. Claims 2-7, 9-22 and 25-26 are objected to because of the following informalities: in claims 2-7, 9-14, 25-26, line 1, claim 15, lines 1-2, "characterised in that" should be --wherein--. In claims 16-22, the terminology "characterised by" should be avoided. In claim 2, "100% of" should be deleted as being redundant. In claims 9-15, 17-22, line 1, "An" or "A" should be --The--. In claims 9 and 25, line 2, "in 100%" should be deleted as redundant. It is noted that while the use of the numerals between the parentheses is not improper such do not further define the invention set forth in the text. On the last line of claim 16, "article" should be --body--. In claims 25-26, line 1, "Packaging" should be --The packaging--. Appropriate correction is required.

8. Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's disclosure, Barrocas '170, Toms '679, Bruggemann '295, Cargill '941, and Dupont '200.

In regard to the claims, Applicants' disclosure at page 4, lines 15-23 and page 7, lines 32-35, as well as , and page 4, lines 25-30, as well as Toms "679 at col. 1, lines 23-27 and col. 11, lines 54-57, Cargill at Description of the Prior Art, admits that it is known to produce components of absorbent articles or packages from material produced from polyethene, also known as polyethylene, derived from non-renewable materials. Applicants' disclosure at page 12, lines 12-30, page 13, line 28-page 14, line 4, page 14, last full paragraph and page 15, lines 17-19, as well as Toms '679 at col. 9, lines 15-66, Cargill as Description of the Prior Art, admit that manufacture of a film or material, including those of polyethene, components from that film or material, absorbent articles from the components, film or material, alone or with other components, prepacking, manufacture of the prepack or package and methods of manufacture,

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including those of polyethene, is also known. Applicants' disclosure at page 4, line 34-page 7, line 3, page 7, lines 11-28 and page 13, lines 25-28, as well as Barrocas et al '179 at col. 1, lines 4-34, admit it is known to produce ethane from ethanol, a renewable material, and to produce polyethene from such ethane. Therefore, the invention of the claims is known except for, and as set forth by Applicants at page 7, line 28-page 8, line 2, the use of renewable raw materials in the manufacture of polyethene for use in absorbent articles or packaging materials. The invention as set forth by Applicants at page 2, lines 10-13 is for the purpose of making such more environmental friendly than known counterparts. In other words, the invention is using renewable raw materials to manufacture a material for use in products in a field of endeavor instead of using non-renewable raw materials to make such a material for use in those products in that field of endeavor as known in order to be more environmentally friendly. However, Applicants' disclosure at page 2, lines 13 et seq and 3, lines 2-15, as well as Bruggemann '295 at col. 1, lines 5-36, Cargill at Description of the Prior Art and Dupont '200 at Technical Background and paragraph bridging pages 4-5, disclose that it is also known and desired to create environmentally friendly diapers or packages by using films, materials and components produced of renewable raw materials rather than non-renewable raw materials for . Therefore, from the Applicant's admissions as to what is known and the prior art, to also use renewable raw materials to produce the polyethene in absorbent articles and packages instead of the previously used non-renewable materials would be obvious to one of ordinary skill in the art in view of the recognition that such would also be more environmentally friendly and the recognition that it is well known how to

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make polyethene films, materials and components from renewable materials and that such is environmentally friendly.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art teaches disclosed and/or claimed features.

13. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday.

KMR

September 26, 2002

K. M. Reichle
K. M. Reichle
Patent Examiner